REMARKS

Claims 1 and 3-33 remain pending in the application.

Claims 1 and 3-33 over Lechleider in view of Bellenger and Vogt

In the Office Action, claims 1, 3-7, 12-21 and 26-29 were rejected under 35 U.S.C. §103(a) as allegedly being obvious over Lechleider, U.S. Patent No. 6,091,713 ("Lechleider") in view of Bellenger et al., U.S. Patent No. 6,058,110 ("Bellenger"); and claims 8-11, 22-25 and 30-33 were rejected under 35 USC 103(a) as allegedly being obvious over Lechleider in view of Bellenger, and further in view of U.S. Pat. No. 5,625,667 to Vogt, III et al. ("Vogt"). The Applicants respectfully traverse the rejections.

Claims 1 and 3-33 recite an analog/DSL modem for efficient **provisioning** of DSL service.

Claims 1 and 3-15 recite receiving a subscriber login request **while** a DSL portion of a combination analog/DSL modem is **NOT provisioned for DSL service**, and provisioning DSL service on said service line if suitability is determined to support DSL service, wherein the DSL service is automatically qualified for service. Claims 16-26 recite program code for logging into a network site via an analog modem portion of a combination analog/DSL modem **while** a DSL portion is **NOT provisioned for DSL service**, and program code for receiving provisioned DSL services when the service line is tested to be suitable to support DSL services, the combination analog/DSL modem being **automatically switched** to use of a DSL portion after provisioning. Claims 27-33 recite a parameter reference module adaptively connected to said combination analog/DSL modem adapted to instruct a service provider to attempt **PROVISION** of DSL service on the service line if suitability is determined to support DSL service.

The Examiner alleges that Lechleider discloses provisioning DSL service on a service line if suitability is determined to support DSL service at col. 7, lines 40-47 (See Office Action, pages 2 and 3).

Lechleider at col. 7, lines 40-47 discloses "Furthermore, processor 119 may also be used to create a list of subscriber loops meeting ADSL band

deployment criteria. The list would then be available to a service provider and may be tailored to particular geographic areas, i.e., all the user in a particular town. As will be recognized by those in the art, the use of web servers and storage medias provides the capability to perform potential ADSL customer searches based on many different demographics."

Lechleider builds a list of subscriber loops meeting ADSL band deployment criteria. However, the ADSL band deployment criteria disclosed by Lechleider must be read within context of Lechleider's entire disclosure, i.e., predicting the performance of broadband transmission channels by using voiceband negotiation information collected by analog modems (See Abstract). Lechleider fails to even mention **provisioning** of DSL service, much less disclose or suggest use of a combination analog/DSL modem to facilitate **provisioning** of DSL service, as recited by claims 1 and 3-33.

As disclosed by Applicants' disclosure, DSL deployment requires four steps: (1) prequalification; (2) provisioning; (3) turning on the service; and (4) post installation issues. If a subscriber location passes prequalification, a network service provider then provisions a connection from the subscriber's location to the central office and finally to the service provider's complementary DSL device via a main distribution frame. This process is known as provisioning and requires coordination between the network service provider and the local exchange carrier ("LEC"). The Examiner appears to be equating testing of telephone lines for predicting the performance of broadband transmission channels. However, **provisioning** of DSL service is a **term of art** within the DSL arts that Lechleider fails to even mention, much less disclose or suggest use of a combination analog/DSL modem to facilitate **provisioning** of DSL service, as recited by claims 1 and 3-33.

The Examiner acknowledges that Lechleider fails to disclose use of an analog/DSL modem wherein the combination analog/DSL modem supports analog service to a subscriber and DSL service to the subscriber (See Office Action, page 3). The Office Action relies on Bellenger and Vogt to allegedly make up for the deficiencies in Lechleider to arrive at the recited features.

Bellenger, col. 2, lines 56-60, is cited by the Examiner as allegedly teaching the use of a modem that operates throughout the voice band and in an extended DSL band above the voice band (See Office Action at 3). Bellenger fails to mention **provisioning** of DSL service.

Vogt is cited by the Examiner for allegedly teaching that the tip and the ring voltage can be measured to calculate the capacitance and resistance of the telephone line (See Office Action at 10). Vogt fails to mention **provisioning** of DSL service.

Neither Lechleider, Bellenger nore Vogt discloses, teaches or suggests **PROVISIONING** to a subscriber using a combination analog/DSL modem, much less attempted automatic **PROVISIONING** based on results of their specific suitability, as recited by claims 1 and 3-33.

Accordingly, for at least all the above reasons, claims 1 and 3-33 are patentable over the prior art of record. It is therefore respectfully requested that the rejections be withdrawn.

Conclusion

All objections and rejections having been addressed, it is respectfully submitted that the subject application is in condition for allowance and a Notice to that effect is earnestly solicited.

Respectfully submitted,

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